

UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF NEW YORK

JAMEL CLARK,

-v-

9:17-CV-366

GERALD GARDNER *et al.*,

Defendants.

APPEARANCES:

OF COUNSEL:

JAMEL CLARK

Plaintiff, Pro Se

99-A-0475

Sullivan Correctional Facility

Box 116

Fallsburg, NY 12733

HON. LETITIA JAMES

New York State Attorney General

Attorneys for Defendants

The Capitol

Albany, NY 12224

LAUREN ROSE

EVERSLEY, ESQ.

Ass't Attorney General

DAVID N. HURD

United States District Judge

ORDER ADOPTING REPORT & RECOMMENDATION

Pro se plaintiff Jamel Clark (“plaintiff”), an inmate in the custody of the New York State Department of Corrections and Community Supervision (“DOCCS”), filed this 42 U.S.C. § 1983 action alleging that various corrections officials violated his constitutional rights under the First, Eighth, and

Fourteenth Amendments. Dkt. Nos. 9, 47. Defendants later moved under Federal Rule of Civil Procedure (“Rule”) 56 seeking summary judgment on all of plaintiff’s claims. Dkt. No. 80.

On March 8, 2021, U.S. Magistrate Judge Thérèse Wiley Dancks advised by Report & Recommendation that defendants’ motion be granted as to all claims except plaintiff’s Eighth Amendment excessive force claims against defendants DeGraff, Karamanos, McElroy, and Harrison. Dkt. No. 93.

Plaintiff has since filed objections to the Report & Recommendation. Dkt. No. 94. Upon *de novo* review of the portions to which plaintiff has objected, the Report & Recommendation is accepted and adopted in all respects. *See* 28 U.S.C. § 636(b)(1)(C).

Therefore, it is

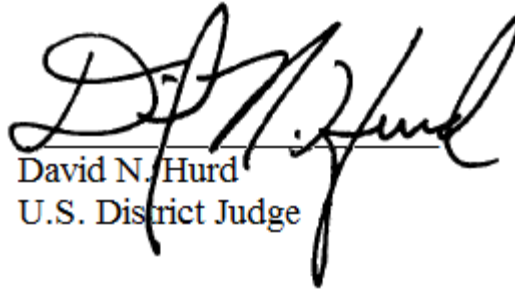
ORDERED that

1. The Report & Recommendation is ADOPTED;
2. Defendants’ motion for summary judgment is GRANTED in part and DENIED in part;
3. Plaintiff’s Eighth Amendment excessive force claims against defendants DeGraff, Karamanos, McElroy, and Harrison survive dismissal and remain for trial; and
4. Plaintiff’s First and Fourteenth Amendment claims are DISMISSED.

5. The Clerk of the Court shall serve a copy of this Order upon plaintiff in accordance with the Local Rules.

IT IS SO ORDERED.

Dated: March 30, 2021
Utica, New York.



David N. Hurd
U.S. District Judge